IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14527 of 2004

Between:

E.Madhava Reddy, S/o.Chandra Reddy,
R/o.Anantharam Village, Shabad Mandal, RR Dist.

..... PETITIONER

AND

1 The Special Grade Deputy Collector, & Revenue Divisional officer, Chevella Division, RR Dist.
2 The Govt. of A.P.,rep.by its Secretary, Panchayat Raj Dept., Secretariat, Hyderabad.
3 The Sarpanch, Antharam Gram Panchayath, Shabad Mandal, RR Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction, more particularly one in the nature of a writ of mandamus, declaring the proceedings No.C/1687/2004 dated 29-07-2004 issued by the 1st respondent as illegal, arbitrary, and contrary to the provisions of section 245 of Panchayat Raj Act and the Rules framed there under and consequently set-aside the same.

Counsel for the Petitioner: MR.POTTIGARI SRIDHAR REDDY

Counsel for the Respondent Nos.1 & 2: GP FOR PANCHAYAT RAJ

Counsel for the Respondent No.3: Smt. Jyothi Eswar Gogineni

The Court made the following:

ORDER:

The petitioner is Upa-Sarpanch of Anantharam village of Shabad Mandal, Rangareddy District. He is aggrieved by a notice in Form IV issued by the first respondent informing all ward members of the Gram Panchayat that a meeting shall be convened on 18.08.2004 at 11.00 a.m. for considering the notice of intention to make a motion expressing want of confidence in the petitioner. Be it noted, the first respondent issued the impugned notice dated 29.07.2004 in accordance with Rule 3 of the A.P.Gram Panchayat Rules for moving of Motion of No-confidence in Upa-Sarpanch of Gram Panchayat, or President or Vice- President of Mandal Parishad, or Chairperson or Vice-Chairperson of the Zilla Parishad (the Rules, for brevity), promulgated vide G.O.Ms.No.200 dated 28.04.1998. The grievance of the petitioner is that the impugned notice is not accompanied by the proposed motion of no confidence and therefore it is vitiated. It is brought to my notice that this Court has already decided this issue in **P.Bapu Raju v Revenue Divisional Officer, Sangareddy**, wherein it was laid down that enclosing a copy of the proposed motion of no confidence to the notice in Form V is not mandatory requirement under Rule 3 of the Rules. It is apposite to extract relevant portion of the said judgment as under:

> As already seen, Form V contains 3 paragraphs. The first paragraph in effect puts a person on notice of the fact that a notice of intention to express want of confidence has been delivered to the concerned officer under sub-section (2) of Section 245 of the Act. The second paragraph of Form V then states that in view of the notice of intention, the officer is giving notice that a meeting of Mandal Praja Parishad shall be held at the office of the Mandal Parishad for considering the motion. These two paragraphs distinctly deal with two mandatory requirements of Rule 3. The same is not the case with the last paragraph which contains only one sentence to the effect that the copy of the proposed motion of 'No confidence' is enclosed. As already held by me the purport of paragraphs 1 and 2 in Form V is in consonance with sub-section (1) of Section 245 of the Act and Rule 3 of the Rules whereas it is not the case with regard to the last sentence in Form V. Therefore, it has to be held that though it is a requirement as pr Form V, enclosing a copy of "proposed motion of no confidence" is not required as per the provisions of the parent Act or the Rules. Hence, the submission made by the learned counsel for the petitioner Sri Prabhakar that sending the copy of Form V along with the proposed resolution of 'No confidence' is mandatory is liable to be rejected.

In that view of the matter, whether or not the petitioner is received the notice cannot be said to suffer from any infirmity. The writ petition, therefore, is dismissed.

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(V.V.S.RAO,J)

17.08.2004.

pln

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Special Grade Deputy Collector and Revenue Divisional Officer, Chevella Division, Rangareddy District.
2. The Secretary, Panchayat Raj Department, The Government of Andhra Pradesh, Secretariat, Hyderabad.
3. 2 CCs to the G.P. for Panchayat Raj, High Court Buildings, Hyderabad.
4. 2 CD copies.